

North Carolina Industrial Commission

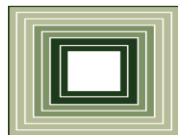
Agency Overview

**Joint Meetings of the House and Senate Appropriations
Committees on General Government**

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Committee Staff

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FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

Outline

1. Statutory Duties & Responsibilities
2. Budget Overview
3. Agency Divisions
4. Recent Legislative Actions
5. Budget and Fiscal Items

Statutory Duties and Responsibilities



Statutory Duties & Responsibilities

- Independent, quasi-judicial Commission
- Administratively housed under the Department of Insurance
 - Transferred from the Department of Commerce in 2017
- Full Commission composed of six Commissioners
 - Three designated as “employer” representatives; three as “employee” representatives
- Commissioners appointed by the Governor for terms of six years and subject to General Assembly confirmation
 - Commissioners may serve a maximum of two terms
 - One designated as the Chair by the Governor

Statutory Duties & Responsibilities

- **Chapter 97 – NC Workers’ Compensation Act**
 - Subjects employers with three or more employees, with some exceptions, to the Act and requires them to obtain workers’ compensation (comp) insurance or qualify as a self-insured employer
 - Entitles injured workers to medical and/or disability compensation in accordance with the statute if they have suffered a compensable “injury by accident” or a compensable occupational disease

Statutory Duties & Responsibilities

- **Chapter 97 – NC Workers' Compensation Act**
 - NC Industrial Commission (NCIC) established in 1929 (G.S. 97-77) to administer the NC Workers' Compensation Act
 - Processes workers' comp claims
 - Adjudicates contested cases
 - Investigates violations of the NC Workers' Compensation Act

Statutory Duties & Responsibilities

- **NCIC fee authority:**
 - G.S. 97-73 authorizes NCIC to establish by rule fees that support operations
 - The NCIC may NOT collect fees for the following:
 1. A workers' comp hearing before a Deputy Commissioner
 2. A workers' comp hearing before the Full Commission
 3. Processing certain agreements

Statutory Duties & Responsibilities

- **Chapter 143, Article 31 – Tort Claims Act**
 - Given the authority to administer in 1949
- **Tort Claims Act:**
 - Authorizes the State of NC to be sued and held liable for damages up to \$1M when those acting on behalf of the State are found to be negligent in carrying out their duties
 - Many State tort claims are filed by inmates

Statutory Duties & Responsibilities

- **The NCIC also administers:**
 - Chapter 130A, Article 17 – Childhood Vaccine-Related Injury Act
 - Chapter 143, Article 12A – Public Safety Employees' Death Benefits Act
 - Chapter 143, Article 83 – Employee Fair Classification Act
 - Chapter 148, Article 8 – The Act to Compensate Individuals Erroneously Convicted of Felonies

Budget Overview



General Fund Budget Overview

	FY 2020-21 Actual		FY 2021-22 Actual		FY 2022-23 Certified		FY 2022-23 Authorized*	
Requirements	\$	20,746,428	\$	19,877,047	\$	17,566,601	\$	19,095,157
Receipts		14,881,188		14,877,761		10,273,490		11,694,319
Net Approp.		5,865,240		4,999,286		7,293,111		7,400,838
FTE		144.204		144.204		144.204		144.204

*As of December 2022

Source of Receipts:

- Penalties and fines resulting from violations of the Workers' Compensation Act
- Fees for State tort claim hearings, Compromise Settlement Agreements, and Mediator Reports
- Transfer from the Insurance Regulatory Fund

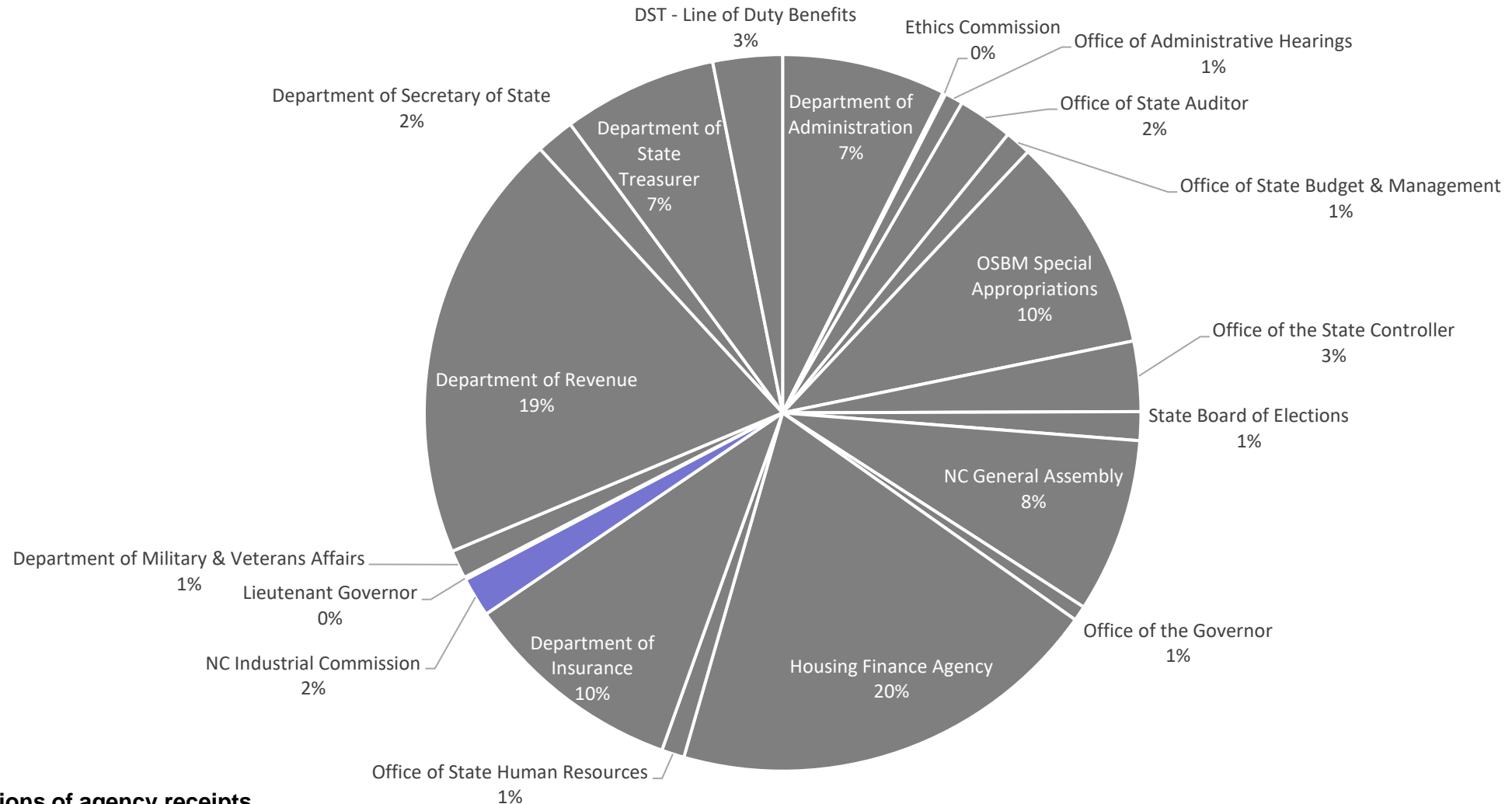
Agency Budget In Context (FY 2022-23 Authorized)

Agency	Requirements	Receipts	Net Appropriation	Req. %	Net %
Department of Administration	\$ 79,242,999	\$ 18,416,437	\$ 60,826,562	7.4%	11.7%
Ethics Commission	1,410,674	92,139	1,318,535	0.1%	0.3%
Office of Administrative Hearings	8,874,317	1,416,793	7,457,524	0.8%	1.4%
Office of State Auditor	26,571,659	8,777,653	17,794,006	2.5%	3.4%
Office of State Budget & Management	12,590,882	1,406,005	11,184,877	1.2%	2.2%
OSBM Special Appropriations	104,817,300	89,300,300	15,517,000	9.7%	3.0%
Office of the State Controller	33,949,260	1,339,976	32,609,284	3.2%	6.3%
State Board of Elections	13,898,259	5,643,199	8,255,060	1.3%	1.6%
NC General Assembly	84,474,142	874,679	83,599,463	7.8%	16.1%
Office of the Governor	7,279,961	1,321,590	5,958,371	0.7%	1.1%
Housing Finance Agency	210,660,000	170,000,000	40,660,000	19.6%	7.8%
Office of State Human Resources	10,967,596	875,358	10,092,238	1.0%	1.9%
Department of Insurance	107,661,543	40,701,878	66,959,665	10.0%	12.9%
NC Industrial Commission	24,375,670	13,197,319	11,178,351	2.3%	2.2%
Lieutenant Governor	1,235,456	4,420	1,231,036	0.1%	0.2%
Department of Military & Veterans Affairs	13,741,127	1,284,631	12,456,496	1.3%	2.4%
Department of Revenue	208,915,742	93,227,537	115,688,205	19.4%	22.3%
Department of Secretary of State	18,635,005	843,379	17,791,626	1.7%	3.4%
Department of State Treasurer	74,606,990	69,328,717	5,278,273	6.9%	1.0%
DST - Line of Duty Benefits	33,576,923	321,500	33,255,423	3.1%	6.4%
TOTALS	\$1,077,485,505	\$ 518,373,510	\$ 559,111,995	100.0%	107.9%

Source: NC Accounting System, December 2022 authorized budgets

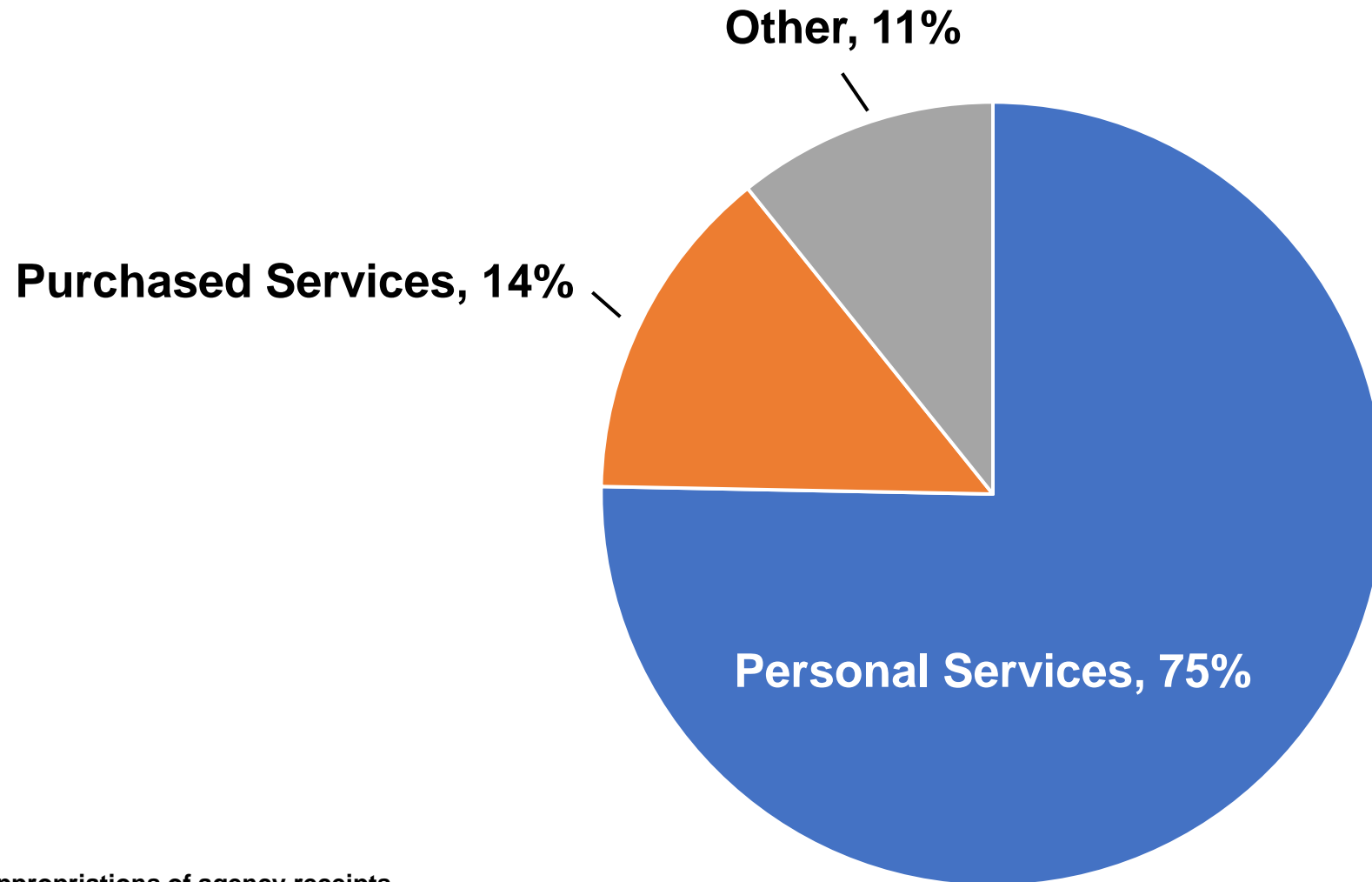
Agency Budget In Context

Total Authorized Requirements FY 2022-23¹



¹Includes appropriations of agency receipts.

General Fund Requirements Authorized Budget FY 2022-23¹



¹Includes appropriations of agency receipts.

General Fund Budget History

	FY 2012-13 Actual	FY 2013-14 Actual ¹	FY 2014-2015 Actual ²	FY 2015-16 Actual ³	FY 2016-17 Actual	FY 2017-18 Actual ⁴	FY 2018-19 Actual	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Actual	FY 2022-23 Authorized ⁵
Requirements	\$ 15,048,236	\$ 14,157,220	\$ 14,964,327	\$ 16,217,902	\$ 16,219,872	\$ 22,124,991	\$ 21,343,071	\$ 20,015,945	\$ 20,746,428	\$ 19,877,047	\$ 19,095,157
Receipts	8,882,446	8,814,803	9,809,754	10,975,017	11,779,953	18,102,121	17,145,605	14,587,933	14,881,188	14,877,761	11,694,319
Net Approps.	6,165,790	5,342,417	5,154,573	5,242,885	4,439,919	4,022,870	4,197,466	5,428,012	5,865,240	4,999,286	7,400,838
FTE	153.59	162.143	162.143	161.26	159.332	151.25	145	147	144.204	144.204	144.204

¹Appropriated funding and additional FTE to establish Insurance Compliance Program

²Fee authority modified in statute

³Appropriated funds transferred from the Insurance Regulatory Fund - \$2.4M recurring

⁴Transferred from the Dept. of Commerce to the Dept. of Insurance

⁵As of December 2022

General Fund Budget History

- **Current fees collected:**
 - Processing Compromise Settlement Agreements (CSAs) (\$400)
 - Processing Mediator Reports (\$200)
 - State tort claim hearings
 - \$120 for Deputy Commissioner hearing
 - \$220 for Full Commission hearing

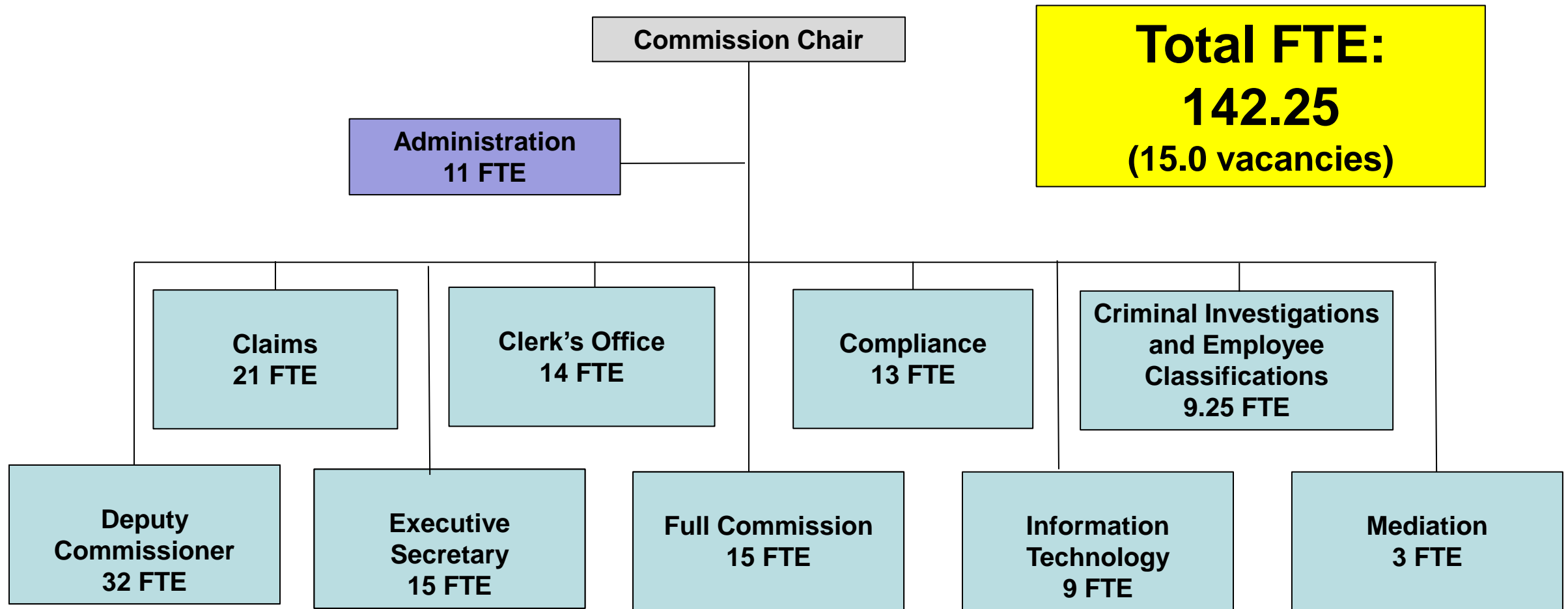
Reversion History

FY 2017-18 Actual		FY 2018-19 Actual		FY 2019-20 Actual		FY 2020-21 Actual		FY 2021-22 Actual		5-Year Average
\$	\$1,476,620	\$	582,950	\$	262,600	\$	1	\$	203,669	\$ 505,168
	37%		14%		5%		0%		4%	12%

Key takeaway

- Reversions are usually the result of vacant positions

Organizational Chart



Agency Divisions

Agency Divisions

- **Claims Administration:**

- Processes workers' comp injury reports from employers and employees
- Processes forms regarding acceptance/denial of claims, initiation/termination of benefits, and return to work status
- Processes occupational disease claims, death claims, claim closures
- Reviews payment agreements
- Assesses sanctions on employers/insurers who fail to respond to a workers' comp claim by filing the appropriate NCIC form within 30 days following notice of the filing of the workers' comp claim, pursuant to G.S. 97-18(j)
- Operates a call center

Agency Divisions

Claims Administration Select Workload Statistics

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Files Opened	63,399	61,776	59,410	60,661	57,616
Employee Notice of Injury Forms Filed (Form 18)	17,519	17,015	17,710	16,335	15,289
Employer Response Forms Filed (Forms 60, 61, 63)	50,261	48,558	46,655	52,647	43,369
Calls Answered	45,279	22,213	19,421	20,910	18,056

Source: NC Industrial Commission

Agency Divisions

- **Clerk's Office:**

- Clearinghouse for documents filed with the NCIC
- Processes various claims, including State tort claims, Public Safety Employees' Death Benefits Act claims, and Compensation to Persons Erroneously Convicted of Felonies Act claims
- Processes requests for copies of files, certified copies of files, hearings, and appeals
- Assists with the docketing and calendaring of hearings and appeals
- Files Full Commission and certain Deputy Commissioner decisions
- Rules on various administrative motions
- Manages the NCIC's attorney database

Agency Divisions

Clerk's Office Select Workload Statistics					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Total Hearing Requests Filed	7,979	7,941	7,274	6,400	6,427
State Tort Claims Filed	678	765	860	753	814
Appeals to Full Commission Filed	599	598	489	321	447
Documents Scanned and Uploaded	29,944	16,744	20,512	13,398	9,831

Source: NC Industrial Commission

Agency Divisions

- **Compliance Division:**

- Investigates cases of non-insured employers in violation of the Workers' Compensation Act
- Refers non-insured employers to Deputy Commissioner Section for civil penalty assessments for periods of noncompliance
- Assists NC Dept. of Justice with the enforcement and collection of penalties
- Uses the Noncompliant Employer Tracking System (NETS) to identify instances of potential noncompliance
- Receives and investigates referrals from the Criminal Investigations and Employee Classification Division
- Attempts to bring non-insured employers into compliance

Agency Divisions

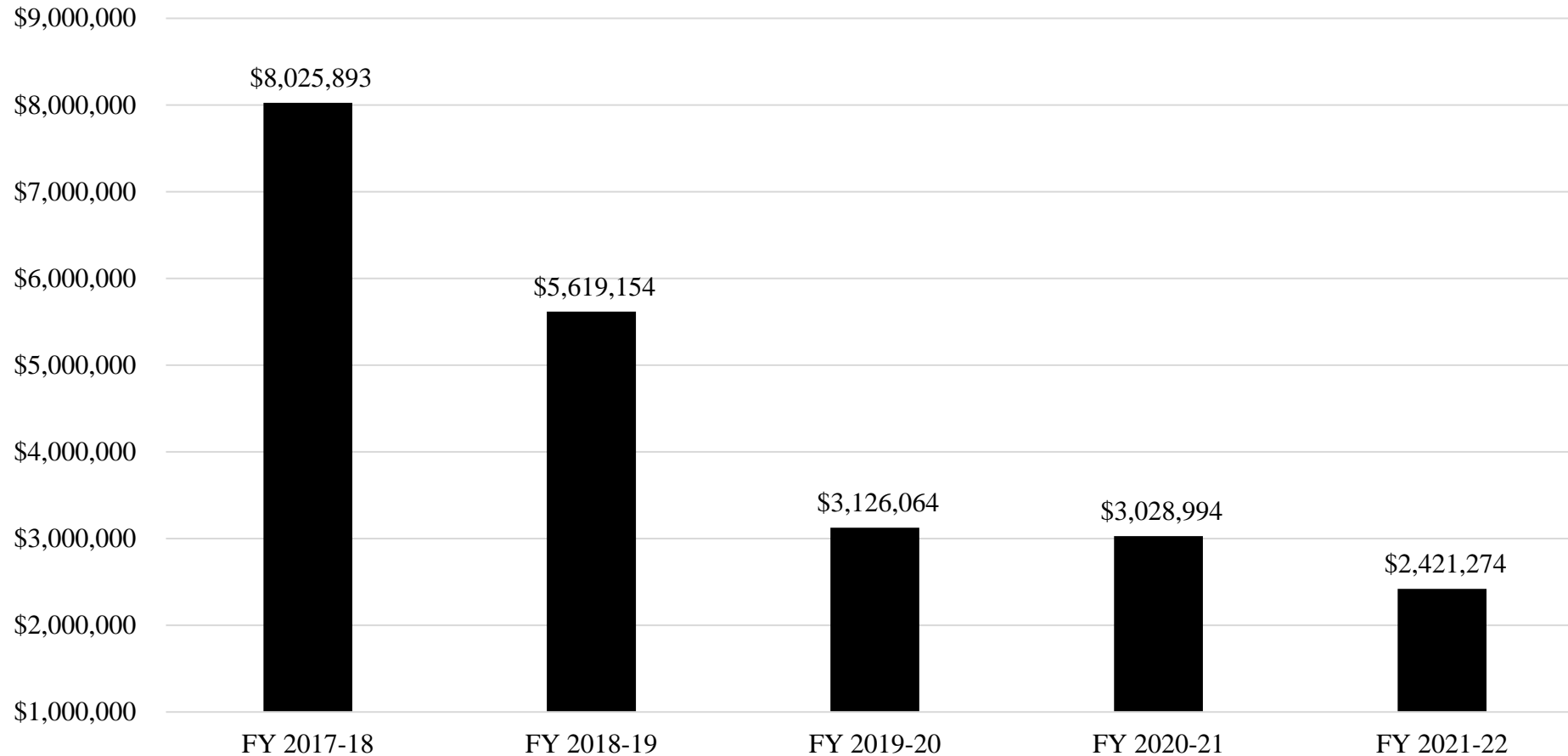
Compliance Division Select Workload Statistics					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Non-Insured Hearings Docketed	183	213	235	226	142
Non-Insured Cases Resolved*	5,588	5,106	4,422	2,426	1,451

Source: NC Industrial Commission

*Penalties assessed or cases otherwise closed

Agency Divisions

Compliance Penalties Assessed



Source: NC Industrial Commission

Agency Divisions

- **Criminal Investigations and Employee Classification:**
 - Operates as a law enforcement agency with six law enforcement officers
 - Investigates cases of workers' comp fraud, Chapter 97 violations, and employee misclassification
 - Partners with the courts, other law enforcement agencies, and State agencies to investigate and resolve cases
 - Uses NETS, the Employee Classification Application (ESA), hotline tips, and other available technology to identify potential cases of criminal violations

Agency Divisions

- **Workers' Compensation Fraud**

- Employer fraud may involve deducting workers' comp insurance premiums from employees' wages
- Employer or employee fraud may involve willfully making a false statement or representation of a material fact for the purpose of obtaining or denying workers' comp benefits
- Fraud may also involve medical payment fraud

- **Employee Misclassification**

- Employee Fair Classification Act defines as an employer avoiding tax liabilities and other obligations, such as obtaining worker's comp insurance, by misclassifying an employee as an independent contractor

Agency Divisions

Criminal Investigations and Employee Misclassification Select Workload Statistics

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Cases Reported	5,525	8,661	9,254	12,762	12,766
Cases Closed	5,314	8,322	8,722	12,360	12,510
Criminal Charges Filed Against Noncompliant Employers	688	623	551	147	396
Reports of Employee Misclassification	n/a*	5,186	5,129	5,189	7,118

Source: NC Industrial Commission

*Employee Fair Classification Act enacted in 2017 - reporting system not yet implemented

Agency Divisions

- **Executive Secretary's Office:**
 - Handles administrative motions and other filings in cases not before a Deputy Commissioner or the Full Commission
 - Reviews and approves most CSAs (\$400 fee to file)
 - Rules on applications regarding the termination or reinstatement of compensation, as well as administrative medical motions
 - Administers the medical fee schedule and medical rehabilitation nurse section

Agency Divisions

Executive Secretary's Office Select Workload Statistics

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Decisions on CSAs	10,049	10,387	10,399	9,536	9,185
Decisions on Applications to Terminate or Suspend Compensation	1,545	1,533	1,518	1,518	1,506
Decisions on Applications to Reinstate Compensation	224	212	234	225	231

Source: NC Industrial Commission

Agency Divisions

- **Mediation Section:**
 - Processes mediation forms, rules on mediation-related motions, invoices Report of Mediator fees (\$200)
 - Contested cases ordered into mediation when a hearing is requested; some cases enter voluntary mediation
 - Not all cases referred for mediation are mediated
 - Mediators are not State employees and must be certified by the NC Dispute Resolution Commission

Agency Divisions

Mediation Section Select Workload Statistics					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Cases Referred to Mediation	9,677	9,275	9,671	8,124	8,797
Settlement Rate at Mediation	73%	73%	73%	73%	71%
Overall Settlement Rate	76%	77%	77%	77%	74%

Source: NC Industrial Commission

Agency Divisions

- **Deputy Commissioners:**

- Appointed by the Commission Chair for six-year terms, which may be renewed once
- Adjudicate contested cases between injured workers, employers, insurance carriers, citizens of the State, and the State of NC that arise under the Workers' Compensation Act and the State Tort Claims Act
- Conduct evidentiary hearings to consider the facts of the case and impartially render decisions
- Hear administrative motions, review CSAs, and review complex agreements

Agency Divisions

Deputy Commissioner Select Workload Statistics

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Cases Heard*	2,177	1,665	1,171	780	698
Final Decisions Filed**	724	1,071	864	372	627
Settlement Agreements Approved	2,157	2,045	1,927	1,738	1,781

Source: NC Industrial Commission

*Excludes penalty and contempt matters

**Includes opinions and awards for workers' comp cases and decisions and orders for State tort cases

Agency Divisions

- **Full Commission:**

- There are six Commissioners who are appointed by the Governor for six-year terms and confirmed by the General Assembly
- The Commissioners sit in panels of three to hear and rule on appeals from Deputy Commissioner decisions
- Full Commission panels conduct a full review of the evidence before issuing a decision
- Decisions may be appealed to the NC Court of Appeals
- Full Commission also sets policy for the administration and operations of the agency

Agency Divisions

Full Commission Select Workload Statistics					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Total Appeals to Full Commission	599	598	489	322	447
Full Commission Decisions Issued	442	723	651	494	506

Source: NC Industrial Commission

Agency Divisions

- **Information Technology (IT):**
 - Supports external and internal users
 - Provides security for the NCIC's information, information systems, and information system infrastructure
 - Maintains hardware, software applications, licenses, and networks
 - Provides training to users
 - Designs, manages, and implements IT initiatives

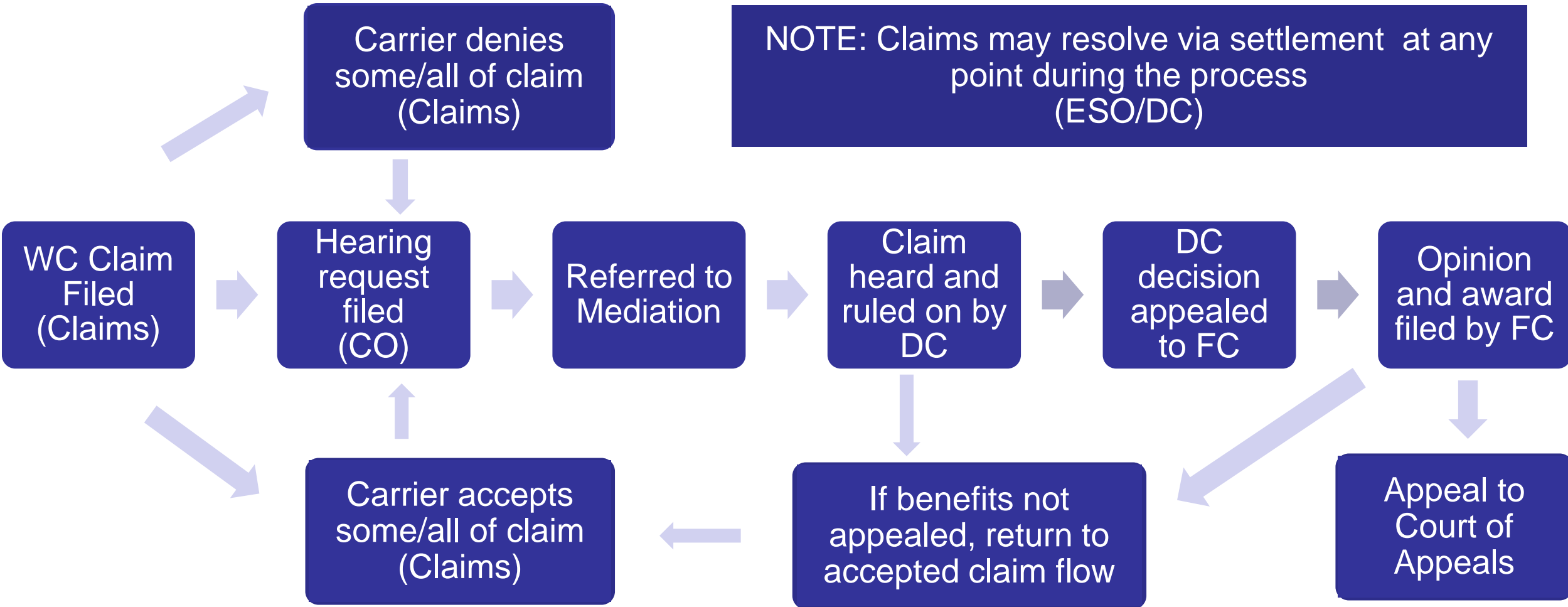
Agency Divisions

- **Recent IT Initiatives:**

- *Virtual/Remote Hearing Project* – remodel of the NCIC hearing room to implement a new virtual hearing system
- *Case Management System Project* – ongoing replacement of NCIC legacy systems with a cloud-based consolidated case management system to improve efficiency and user experience; expect to go live later this year
- *Website Modernization Project* – modernization of the NCIC's website to bring up to current standards

Workers' Comp Claim Flow Chart

NOTE: Claims may resolve via settlement at any point during the process (ESO/DC)



Highlights of Recent Legislative Actions

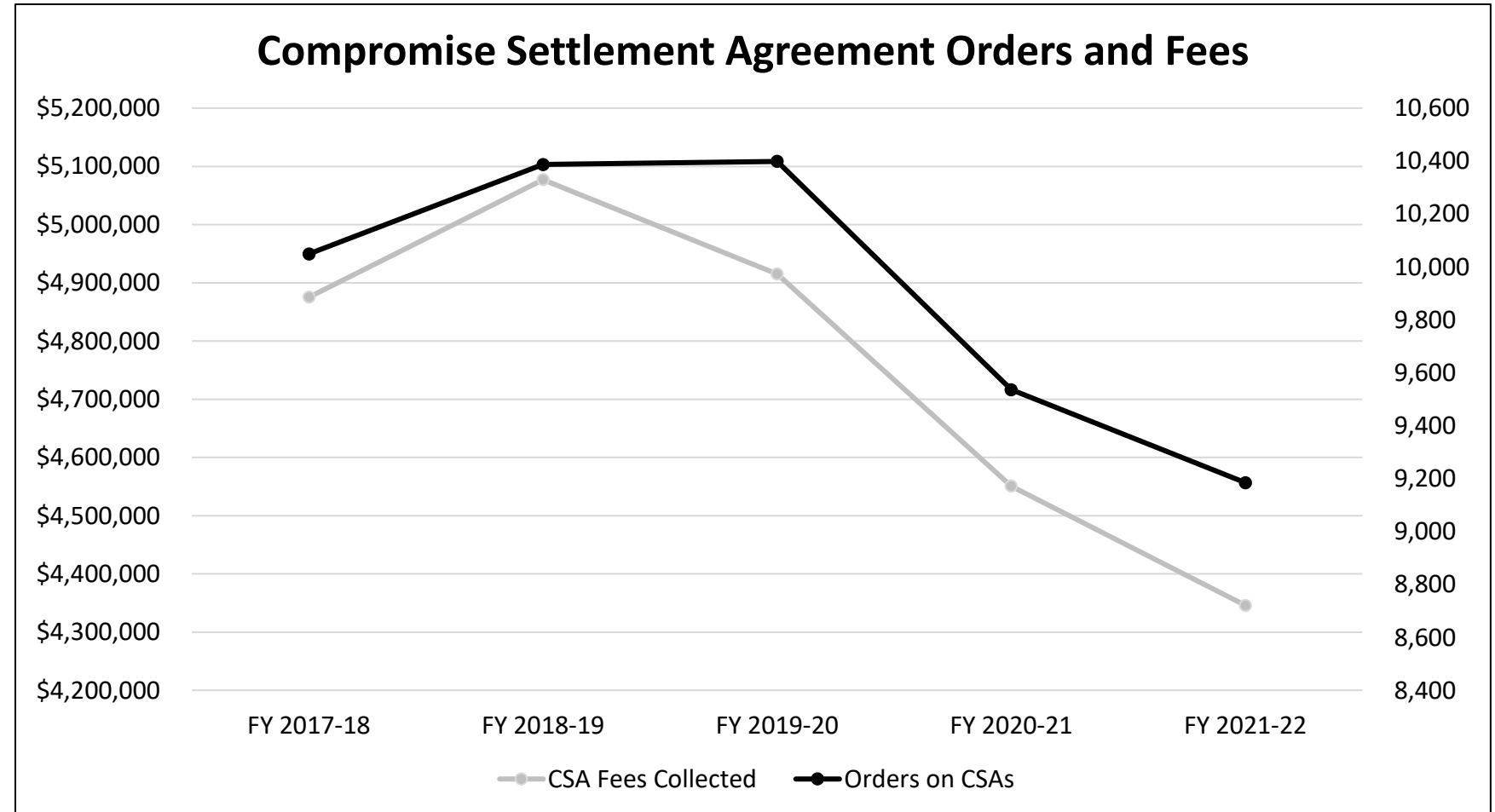
Highlights of (Relatively) Recent Legislative Actions

- **S.L. 2022-74** – Moved 12.0 FTE from receipt-supported to General Fund support
- **S.L. 2020-78** – Authorized NCIC to electronically notify parties of Commission rulings
- **SL. 2018-5** – Lowered minimum daily penalty for employers out of compliance with the Workers' Compensation Act from \$50 to \$20
- **S.L. 2014-100** – Placed restrictions on NCIC's ability to charge fees
- **S.L. 2011-187** – Placed a 500-week cap on total disability compensation

Budget and Fiscal Items

Budget and Fiscal Items

- **Budget Consideration:**
 - NCIC receipts have declined in recent years, particularly fees collected for CSAs



Source: NC Accounting System; NC Industrial Commission

Budget and Fiscal Items

- **Potential reasons for decline in CSAs:**
 - Workers' comp legislative reforms (S.L. 2011-187):
 - May have motivated the settlement of claims that were initiated prior to June 24, 2011 (aka "old law" cases)
 - After 10+ years there are few "old law" cases that have a good chance of settling
 - The COVID-19 pandemic:
 - Some parties may have delayed filing hearing requests and postponed mediations due to health and safety concerns
 - Fewer injuries may have occurred in the earlier stages of the pandemic when fewer people were working due to workplace closures

Budget and Fiscal Items

- **Impact on budget:**
 - General Fund dollars are not appropriated to State agencies to fund legislatively mandated salary increases (LIs) for receipt-supported positions
 - NCIC supports 80+ FTE with receipts
 - Cumulative effect of funding LIs over time, coupled with declining receipts, creates uncertainty in the budget at current operating levels
 - Receipt losses caused by the COVID-19 pandemic may rebound at some point, but it's not clear if or when this will occur

Budget and Fiscal Items

- **Options for consideration:**
 - Maintain status quo
 - NCIC can continue operating under current budget or can pursue fee increases under current authority
 - CSA and Report of Mediator fees have not changed since 2014
 - Appropriate additional General Fund support

Questions?

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